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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,008	12/11/2001	Jean-Yves Bacques	11027.26USWO	6927

7590 10/29/2003  
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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 10/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/018,008

Applicant(s)

BACQUES ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,19 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6,9-18,20,21,23 and 24 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 7-8, 19, and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 11.

With respect to the traversal, it is noted that if applicant disagrees with the examiner that the disclosed species are not patentably distinct, applicant should submit evidence and clearly admit on the record that is the case. See previous Office Action, Paragraph 1.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the detachment of the adhesive spot must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-6, 9-18, 20-21, and 23-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The claims are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

In claim 1 “the form”, “the side walls”, “the adjacent wall”, and “one or more spots of adhesive” have no antecedent basis.

“said panel or said first wall...being connected... by precut join lines to the first wall” is confusing. The first wall can not be connected to the same first wall.

“designed to be able” renders the claim indefinite.

“and/or” renders the claim indefinite.

What is “two parts of side walls”?

“and a wall known as the bottom wall” renders the claim indefinite.

“and/or one or more spots of adhesive” is confusing.

“that can be detached” is confusing. It is unclear what is meant by that, the “the precut frangible portion or the bottom”.

In claim 9, “the fourth join line” has no antecedent basis.

It seems that the recitation of the sidewalls connected to the bottom wall via precut frangible portions is incorrect. Fig. 1 shows the frangible portions 28, 29 connecting the various portions of the sidewalls together and situate on the sidewall and not on the bottom wall as claimed.

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The term “leaves” and “leaf” should be recited as “panels” and/or “panel” similar to claim 1.

In claim 3, “the corresponding leaf and/or flap” has no antecedent basis.

In claims 5 and 17, “second, third, and fourth join lines to adjacent panels forming one or more flaps” is confusing. A plurality of join lines inherently would have a plurality of flaps. Here, “one” flap is recited. Applicant seems to use alternate term “or”, “and/or” indiscriminately without considering the consistency of the alternatives or the scope of the disclosure.

In claim 9, it is unclear how can a line is in the form of a cap.

In claim 10, it is unclear where the first wall being associate with the hollowed-out part.

It is unclear where are D1 and D2 in the drawings.

In claim 17, “intended to form” should be changed to --for forming--.

It is noted that there are numerous inconsistencies along with indefinite errors remain.

Applicant is required to correct all remaining errors.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Zulauf et al. (4865187). Zulauf teaches a case having a removable panel 14 partially forming the first

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sidewall. The first wall is connected to the two sidewalls and the bottom wall of the case, and portions of the sidewalls can be detached by pulling as claimed.

7. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Prakken et al. (6129211). Prakken teaches a case having a removable panel 216 partially forming the first sidewall. The first wall is connected to the two sidewalls and the bottom wall of the case (the panel where numeral 220 is at immediately below panel defined by 214), and portions of the sidewalls can be detached by the perforation at 222.

8. Claims 1-6, 10, 15-18, 20, 21, and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Rouger (FR2581971). Rouger teaches a case having a removable panel 4 as shown in 5 and 6. The first wall is connected to the two sidewalls and the bottom wall of the case, and portions of the sidewalls can be detached by the perforation at the opposite tear line 7. It is noted the score line 9 and the two perforations in Fig. 4.

Regarding claim 2, line 9 is foldable as claimed.

Regarding claim 3, line 5 and 6 are open at the two side flaps.

Regarding claims 5-6, panel 2 can be considered as the first panel that can be opened similar to that of panel 4 shown in Fig. 6, and panel 1 is considered as the bottom panel.

Regarding claim 17, panel 2 is the first wall, panel 1 is the bottom wall with side flaps 1a, each with precut portion by line 9 going through each of the side flaps.

Regarding claim 20, note the fourth leaf 4 having a frangible portion by line 6.

9. Claims 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouger in view of Cuffey, Jr. et al. (2967010). Cuffey teaches that it is known in the art to provide tear

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strips with rectilinear shape and curved shape. It would have been obvious to one of ordinary skill in the art to provide the tear strips of Cuffey in Rouger to provide an alternative tear strip.

10. Claims 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouger in view of Jackson et al. (UK2307466 A). Rouger meets all claimed limitations except for the variable cuts. Jackson teaches that it is known in the art to provide variable cuts. It would have been obvious to one of ordinary skill in the art to provide variable spacing in Roughter as taught by Roccaforte to open the tear strips easily.


### *Conclusion*

11. In view of the 112 matters as set forth above, the allowability of claims 9, and 23 can not be determined at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai   
Primary Examiner  
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